

RECORD OF DECISION

for

US 89: Browning - Hudson Bay Divide

Glacier County

Project Number: STPP 58-1(19)0

Control Number: 4045

Final Environmental Impact Statement

and

Final Section 4(f) Evaluation

FHWA-MT-EIS-04-01-F

US Department of Transportation
Federal Highway Administration
Helena, Montana

By: Michael J. Duman
Michael J. Duman, Acting Division Administrator
Federal Highway Administration

Date: 4/19/2007

MONTANA DEPARTMENT OF TRANSPORTATION RECORD OF DECISION

for

US 89: Browning - Hudson Bay Divide

Glacier County

Project Number: STPP 58-1(19)0
Control Number: 4045

Final Environmental Impact Statement
and
Final Section 4(f) Evaluation

FHWA-MT-EIS-04-01-F

In accordance with Title 18, Chapter 2, Section 252, Administrative Rules of Montana (ARM 18.2.252), I hereby accept and concur with the findings and decision as documented in the US Department of Transportation Federal Highway Administration's Record of Decision for this project as approved on 04/19/07.

By: 
Director, Montana Department of Transportation

Date: 5/2/07

INTRODUCTION AND BACKGROUND

The Montana Department of Transportation (MDT) and the Federal Highway Administration (FHWA) propose to improve an approximately 41-kilometer (25.5-mile) segment of US Highway 89 (US 89) east of Glacier National Park in Glacier County, Montana, within the Blackfeet Indian Reservation. The proposed project focuses on potential improvements to US 89 between Hudson Bay Divide and Browning and improvements to Duck Lake Road between Browning and US 89 south of Babb.

The project is needed for the following reasons:

- US 89 from Browning to Hudson Bay Divide is a critical portion of the roadway network serving the Blackfeet Indian Reservation and the east entrances of Glacier National Park;
- US 89 serves a wide variety of vehicle types and users with a diverse mix of traffic and traveling characteristics and needs that are currently not met by the existing roadway configuration;
- The diverse mix of traffic and traveling characteristics results in potential traveler safety issues associated with vehicle speed, frequency of stops, and proximity of bicyclists to vehicles; and
- US 89 is narrow, with sharp curves and few turnouts. Large areas of the highway are rough and uneven. Pavement overlays are no longer a viable option because of the narrow roadway. This stretch of US 89 is becoming increasingly difficult and expensive to maintain. Design features of the roadway contribute to drifting snow and make snow removal slow and expensive.

The purpose of the proposed project is to improve traffic flow, roadway safety, and roadway maintenance within the transportation corridor between Browning and Saint Mary-Babb. Hudson Bay Divide was identified as a logical terminus (end point) for the project because Hudson Bay Divide is the point where improvements from this proposed project would match with the recently reconstructed segment of US 89 to the north.

DECISION

Based on the information provided in the US Highway 89 Browning to Hudson Bay Divide Final Environmental Impact Statement and Section 4(f) Evaluation (FEIS), approved December 8, 2006 and released for public review on February 9, 2007, MDT and the FHWA have selected **Alternative C** for implementation (Selected Alternative).

This alternative will increase the road width to 11 meters (36 feet) for improvements of approximately 41 kilometers (25.5 miles) of US 89 from the intersection of US 2 and US 89 at Browning to the Hudson Bay Divide, combined with the Improve Duck Lake Road Alternative Route Option.

The FEIS presents a complete description of the alternatives considered and identifies Alternative C as the preferred alternative. Copies of the FEIS are available by request to the MDT and on the World Wide Web at: http://www.mdt.mt.gov/pubinvolve/eis_ea.shtml.

Specific objectives that MDT and FHWA would strive to achieve with this project would include:

- Improvement of roadway safety;
- Enhancement of traffic flow;
- Accommodation of roadway maintenance;

- Enhancement of the cultural resources of the Blackfeet Nation;
- Protection of the natural environment; and
- Provision of an appropriate balance between cost efficiency, roadway safety and function, and environmental protection.

The Selected Alternative would provide a widened roadway with the existing two-lane configuration of US 89. To the extent practicable, the reconstructed roadway would meet MDT design standards for a rural minor arterial. The cross-section of the improved roadway would include two 3.6-meter (12-foot) travel lanes with a 1.8-meter (6-foot) shoulder on each side. In addition to being widened, portions of the roadway would be realigned. The Selected Alternative would also include improvements to Duck Lake Road to address localized inadequate alignment and road surface conditions.

ALTERNATIVES CONSIDERED

This Record of Decision (ROD) is based upon the evaluation of a No-Build Alternative (Alternative A), two build alternatives (Alternatives B & C) and an option that could be implemented with either build alternative (Duck Lake Road). Those alternatives are described in Chapter 2 and evaluated in Chapter 4 of the FEIS.

Either build alternative would fulfill the purpose of and need for the project. Either build alternative would shift the alignment of the existing roadway in specified locations to provide improved traffic flow and highway safety.

The Selected Alternative would provide a roadway design that is similar to Alternative B but would have wider shoulders. The Selected Alternative would provide improved traffic flow and increased highway safety for the traveling public compared to Alternative B. The selection of Alternative C as the Selected Alternative for this project is based on public input and relevant factors analyzed in the development of the FEIS as discussed in this ROD.

Additional alternatives considered but not carried forward for evaluation are described in Chapter 2 of the FEIS.

Alternative A: No-Build Alternative

The no-build alternative involves continued maintenance of the existing roadway with minimal road improvements. Existing bridges would receive safety and necessary structural improvements. Existing roads could have localized rebuilding and spot safety improvements. Travel lanes and paved shoulders would retain their current width. Fill slopes would remain as they are with no major changes in the footprint of the road. The roadway alignment would not change under the no-build alternative and no additional right-of-way would be purchased. The no-build alternative does not meet the purpose and need for the project.

Alternative B: Increase Road Width to 9.8 Meters (32 Feet)

Under Alternative B, the existing two-lane configuration of US 89 would remain, but the roadway would be widened to meet MDT minimum design standards for a rural minor arterial. The cross-section of the improved roadway would include two 3.6-meter (12-foot) travel lanes with a 1.2-meter (4-foot) shoulder on each side.

A 1.5-foot rumble strip would be included. The remaining 2.5 feet would not meet AASHTO's minimum guideline of 4 feet for pedestrians and bicycles.

The roadway would be realigned to eliminate or increase the radius of existing substandard horizontal curves in nine locations. Approximate locations of individual segments expected to be realigned are discussed in Chapter 2 of the FEIS.

Features of Alternative B would include those listed below under Alternative C (except with a 4-foot shoulder).

Alternative C: Increase Road Width to 11 Meters (36 Feet) (Selected Alternative)

Under Alternative C, US 89 would be widened as in Alternative B except that the shoulders would be 1.8 meters (6 feet) wide rather than 1.2 meters (4 feet) wide. Realignments would be the same as those under Alternative B. Additional right-of-way would be acquired through purchase of fee interest or permanent easement.

Alternative C would include features described above, such as:

- pullouts and informational kiosks;
- replacement or widening of existing bridges;
- fencing of the right-of-way;
- replacement of some culverts to improve the ability to accommodate natural stream flow fluctuation and enhance fish passage;
- moderate cut-and-fill slopes to blend with natural terrain to the extent practicable;
- replanting of disturbed areas within MDT right-of-way and easements;
- removal and restoration of existing roadway outside the new roadway corridor; and
- snow fence in limited locations.

Option: Improvements to Duck Lake Road (Selected Alternative)

The Duck Lake Road Option entails the improvement of portions of Duck Lake Road from Browning to US 89 south of Babb. This option combined with either build alternative meets the purpose of and need for the project. Duck Lake Road provides an alternate to US 89 for vehicles traveling between the Saint Mary-Babb area and the Browning area. The proposed improvements to Duck Lake Road address localized inadequate alignments and road surface conditions.

Improvements would include an access road along the east side of Duck Lake Road near the bridge over Cut Bank Creek and off-road parking north of Browning for people accessing the stream for recreational purposes. In addition, a major curve at about the midpoint of the road corridor would be realigned for increased safety. Lastly, the roadbed would be reconstructed, generally along its existing alignment, from the intersection of Duck Lake Road with US 89 eastward approximately 11.3 kilometers (7 miles). The reconstruction is needed to alleviate damage from frost heaving in the winter and early spring. The profile grade of the roadway would be adjusted to minimize changes in grade and to minimize grades of more than five percent. The intersection of US 89 and Duck Lake Road would be realigned and a chain-up area for trucks would be added.

Environmentally Preferred Alternative

The No Build Alternative would involve little or no road improvements. Potential environmental impacts associated with the proposed reconstruction would not occur with the No Build Alternative. However, the No-Build Alternative does not meet the project purpose and need.

As discussed in the FEIS, the difference between environmental impacts of the build alternatives is small. The extent of environmental impact is generally proportional to the width of the alternative. Therefore, Alternative B would have less environmental impacts than Alternative C. As a result, Alternative B is the Environmentally Preferred Alternative. Potential environmental impacts of the build alternatives (Alternative B and C) would include impacts to geology, floodplains, water resources, right-of-way requirements, impervious surface increases, and farmland impacts.

Inclusion of the Duck Lake Road Option as part of the Selected Alternative would result in a small increase to the environmental impacts expected under either build alternative.

Alternative C, including the Duck Lake Road option, was selected for this project despite its slightly greater environmental impact because it does a better job of meeting the overall transportation needs along the corridor, particularly the needs of pedestrians and bicyclists. Alternative C provides a greater margin of safety and improved operational efficiency with minimal additional environmental impact. The small increase in potential environmental impacts is offset by the increase in public and community benefits associated with improved safety and operational efficiency.

FACTORS IN THE DECISION PROCESS

With both build alternatives meeting the purpose of and need for the project, FHWA and MDT; with input from Blackfeet Tribal representatives, the Steering Committee, and the Interdisciplinary team, went through a process of selecting the Preferred Alternative that best fulfilled the objectives of the project. The group concurred that Alternative C met the objectives of the purpose and need better than Alternative B.

Although Alternative C has slightly greater potential environmental impacts than Alternative B due to its wider footprint, the differences are minor and can be largely mitigated by grade/slope adjustment in sensitive areas. The slightly greater potential environmental impacts are offset by considerably greater improvements to safety and traffic flow.

The following subsections summarize the projected safety and traffic operations improvements.

Safety

Both of the build alternatives and the Duck Lake Road Option would provide safety and design improvements that are expected to meet or exceed current standards.

Alternative C would provide a wider shoulder adjacent to the roadway with a rumble strip, which would audibly warn motorists if they were to drift off the roadway. The remaining shoulder area could be used by bicyclists or pedestrians. Providing a wider shoulder and a rumble strip provides separation between vehicles and pedestrians and bicyclists, increases the safety for pedestrians and bicyclists and improves roadway safety compared to Alternative B.

The proposed improvements to Duck Lake Road would address localized inadequate alignment and road surface conditions, and are necessary to maintain safe travel opportunities for all vehicles throughout the year in the Babb to Browning travel corridor. In addition, the improvements to Duck Lake Road would ensure that this road would adequately perform as a truck route throughout the year. By ensuring Duck Lake Road functions as a safe alternative for truck traffic, the proposed improvements to Duck Lake Road would also help to ensure that the improvements on US 89 would meet the project objective of improving roadway safety on US 89 for non-truck vehicles and bicyclists.

Traffic Operations

Alternative C provides a wider shoulder and a rumble strip that provides separation between vehicles and bicycles and improves efficiency of traffic flow that is not available with Alternative B. Slower moving vehicles may temporarily use the wider shoulder to permit faster vehicles to pass, returning to the travel lane when passing maneuvers have been completed.

As discussed above, implementing the Duck Lake Road Option in conjunction with Alternative C would provide a suitable alternate route for truck traffic. Designating Duck Lake Road as an alternate truck route would shift some truck traffic from US 89 to Duck Lake Road, thereby improving traffic flow on US 89. During the winter months, Duck Lake Road is critical to the north / south regional movement of traffic when US 89 is closed to travel because of drifting snow.

SECTION 4(f) EVALUATION

Section 4(f) of the 1966 Department of Transportation Act prohibits FHWA from approving the use of land from a significant publicly owned public park, recreation area, or wildlife or waterfowl refuge, or any significant historic site unless a determination is made that two criteria are met. First, the use can only occur if there is no feasible and prudent alternative to the use of land from the property. Additionally, the use can only occur if the action includes all possible planning to minimize harm to the property. Several Section 4(f) resources in the project area would be affected by this project. The difference in Section 4(f) impacts between Alternative B and Alternative C are negligible.

No publicly owned public parks, wildlife refuges, or recreation areas are located within the project corridor. However, the corridor allows access to Glacier National Park. Four historic roads in the project area are considered Section 4(f) resources. Two historic bridges in the project corridor are eligible for listing in the National Register of Historic Places. Either build alternative would result in impacts to one historic road and two historic bridges.

Segments of the Blackfeet Highway (site 24GL846) would be eliminated where it crosses US 89. Alternative B would reduce the extent of the use of that site by clearing approximately 1.2 meters (4 feet) of width less than Alternative C. In addition to impacts to the Blackfeet Highway, the South Fork Cut Bank Creek/Kiowa Bridge (site 24GL212) would be removed and the South Fork Milk River Bridge (site 24GL213) would be modified under either build alternative.

The Duck Lake Road option would result in impacts to three historic roads. Segments of the Browning to Babb to Saint Mary Stage Road (site 24GL208), the Old Duck Lake Road (site

24GL209), and the Browning to Peksan Road (site 24GL210) would be eliminated where they cross Duck Lake Road within the three improvement areas.

The project would result in no direct impacts to Glacier National Park. However, some delays for travels could occur during project construction.

An evaluation of impacts to Section 4(f) resources is presented in Appendix D – Section 4(f) Evaluation in the FEIS. Avoidance alternatives and measures to minimize harm are also discussed in Appendix D. As discussed in the FEIS, no feasible and prudent alternative exists to avoid the use of land from the historic sites, and this action includes all possible planning to minimize harm.

MITIGATION AND MEASURES TO MINIMIZE HARM

Practicable measures to avoid or minimize environmental impacts from the Selected Alternative have been incorporated into the preliminary design of the Selected Alternative. Mitigation measures to minimize harm to the environment are discussed in detail in Chapter 4 of the FEIS and are summarized below.

Geology and Soils

- Excavation and grading for roadways and slope stabilization will be designed and executed in accordance with recommendations of a geotechnical engineer based on site-specific soil exploration.
- Standard erosion control measures and best management practices (BMPs) will be implemented during the earthwork stages of the project to control surface water drainage and reduce erosion.
- Appropriate seismic parameters will be used in final design of the roadway and for slope stabilization.
- If liquefaction-prone areas are encountered, soil improvement techniques will be considered in final design to enhance engineering properties of the soil.

Floodplains

- Culverts and bridges to be replaced or constructed in the corridor will be designed in accordance with current and appropriate federal and MDT regulations/guidelines at the time of construction.
- Placement of roadside pullouts will be located in areas that do not inappropriately encroach upon floodplains.

Water Resources

- MDT and the contractor will obtain appropriate water resources permits. To ensure appropriate permits are sought and received, consultation will continue with applicable resource agencies as the project design progresses.
- Appropriate BMPs for the site will be selected from the current version of the MDT Erosion and Sediment Control Best Management Practices Manual.

- In accordance with MDT Standard Specifications, the contractor would be required to secure necessary permits associated with material source sites, including those permits required to prevent a violation of water quality standards.
- New storm water outfalls associated with new or reconfigured surface drainage systems will be designed to prevent long-term erosion, accounting for increased flow rates from the roadway.
- Impacts of high flow damage at discharge points on drainage ditches would be managed by considering erosion prevention in the design of the ditches.
- As appropriate, the off-road parking area at Cut Bank Creek will be sloped to the southeast so that runoff would flow away from the stream.

Air Quality

- Because no adverse effects are expected, no mitigation is required.
- Contractors are required to adhere to applicable air quality rules and regulations in accordance with MDT Standard Specifications.

Noise

- The Selected Alternative does not meet the definition of a Type I project in 23 CFR 772. Therefore, a detailed noise analysis was not required.
- Since noise levels with the Selected Alternative are not predicted to be noticeably different from those of the No-build Alternative, no mitigation measures are required.

Vegetation and Wildlife Habitat

- BMPs will be implemented to minimize construction impacts.
- Control of noxious weeds will be required during construction, including proper grading, topsoil treatment, seed mix selection, and seeding operations.
- The MDT Botanist, in consultation with the Blackfeet Nation Environmental Office and the MDT Biologist, will conduct a site visit and prepare a site-specific revegetation plan, including temporary or erosion control seeding and permanent post-construction revegetation of disturbed areas. That seeding will be chosen to benefit wildlife, as appropriate, and to prevent the establishment and spread of noxious weeds.
- Clearing and grubbing will be limited to the minimum amount of area necessary for construction. Where feasible, V-shaped ditches will be used in order to minimize vegetation disturbance and avoid sensitive areas.
- As appropriate and feasible, existing or proposed road structures will be replaced and/or modified to facilitate wildlife crossing underneath the roadway at identified wildlife crossing locations and potential wildlife crossing locations.
- As appropriate, construction plans will specify that contractor stockpiles of topsoil must be contained within the construction limits and may not be stored at environmentally sensitive areas. Locations where this measure will be implemented will be specified in the special provisions for this project.
- Segments of the existing roadway that bisect aspen grove lands, and would be abandoned, will be reclaimed. Those areas occur at approximately reference posts 14 and 15.

Wetlands

- Work in and around wetlands will be performed from an existing roadway or upland site where practicable.
- As appropriate, staging areas for construction equipment and materials will be located in upland areas a minimum distance of approximately 15 meters (50 feet) from wetlands and stream crossings.
- The limits of clearing will be clearly marked to minimize intrusion into wetland habitats.
- Compensation for wetland impacts will be provided in accordance with current replacement ratios required by appropriate agencies, including the US Army Corps of Engineers, the Blackfeet Nation Environmental Office, and the US EPA. Compensatory mitigation sites will be monitored in accordance with MDT standard practices.

Fisheries

- The contractor will be required to store and handle petroleum products, chemicals, cement and other deleterious materials to prevent their entering streams and associated wetlands.
- MDT will work with resource agencies during the permitting process to avoid and minimize impacts to fish spawning.
- Impacts on stream channels will be mitigated onsite to the greatest extent practicable by creating a new channel with dimensions, pattern, profile and length the same as that of the existing channel.
- Stream banks will be revegetated with appropriate species at bridge and culvert installations. The use of bottomless culverts or countersunk culverts will be considered in final design in order to provide a natural streambed for the length of the culvert. As practicable, culverts in fish-bearing streams will be designed and installed to accommodate fish passage. Culverts will be installed and maintained to avoid scouring and to prevent erosion of stream banks downstream of the project site.

Rare and Sensitive Species

- Because no rare and sensitive species would be affected by the project, no mitigation measures are required.
- If rare and sensitive species are identified at the proposed material source sites, mitigation measures would be implemented to avoid or minimize impacts to those species.
- Conservation measures for potential effects on pearl dace and westslope cutthroat trout would be the same as those described in Fisheries Mitigation Section above.

Threatened and Endangered Species

The project will likely be divided into phases for construction purposes. During the final design of each segment, MDT will coordinate with the US Fish and Wildlife Service and the Blackfeet Nation Environmental Office to ensure mitigation measures are appropriate and applicable to current conditions.

Bald Eagle:

- MDT's standard practices are to raptor-proof electrical facilities relocated within MDT right-of-way and restrict vegetation clearing outside of the construction limits.

- No additional conservation measures are proposed to minimize potential impacts to bald eagles.
- However, if an active bald eagle nest is identified within an approximately 1.6-kilometer (1-mile) radius of the project or material source sites, some work may be restricted to the period outside the incubation and rearing period for bald eagles, which generally extends from mid-March to mid-July.

Grizzly Bear:

A summary of mitigation measures for impacts to grizzly bears is listed below. For a complete description of each measure, see Table 30 in the FEIS.

- MDT will consult with Blackfeet Nation and US Fish and Wildlife Service during final design of the structures.
- The new highway structure proposed near reference post 12 at Lake Creek will be constructed to incorporate wildlife crossing features.
- The new highway bridge at main stem South Fork Cut Bank Creek (approximately reference post 13) will be enlarged from a 9-meter (30-foot) opening to a wider opening, to provide a narrow area of dry land passage underneath the bridge during most months of the year.
- In order to improve the existing US 89 highway bridge over North Fork Cut Bank Creek (approximately reference post 17) for wildlife crossing purposes, shrubs and trees will be planted along the banks of the river at the bridge crossing to enhance the vegetative cover.
- Contractors and construction crews will be educated regarding the need for proper sanitation in grizzly bear habitat and will be instructed to report all grizzly bear sightings immediately to the MDT District Biologist who will immediately notify the Blackfeet Nation Environmental Office.
- Food and garbage on the construction site will be stored in bear-proof containers. Garbage will be removed daily from temporary offices and sleeping quarters.
- Construction staging areas, field offices, and sleeping quarters will be located a minimum of 150 meters (500 feet) from riparian areas and reported grizzly bear crossing areas.
- Right-of-way fencing will be installed throughout the project corridor.
- At riparian areas throughout the corridor, construction limits and roadway fill widths will be minimized.
- Scenic pullouts will be located and designed in consultation with the Blackfeet Nation Environmental Office wildlife biologists. Scenic pullouts will:
 - Include warnings to visitors that they are in grizzly bear habitat and that they must remove all garbage from the site;
 - Be limited to the project corridor and will not provide access to areas where humans may encounter grizzly bears, such as riparian areas; and
 - Be designed to provide viewing opportunities and to discourage picnicking.
- Prior to selection of material source sites within the Blackfeet Nation, MDT and its contractor will consult with the Blackfeet Nation Environmental Office and the US Fish and Wildlife Department.

The following conservation measures would be implemented as part of the project at the locations specified below to minimize impacts to grizzly bear in the project corridor:

- Segments of the existing roadway that currently bisect aspen grove lands and would be abandoned will be reclaimed.
- Construction will be staged to allow construction (including earthmoving) during any given construction year at only one of the following three locations:
 - the riparian area east of Kiowa (approximately reference post 10 to 11.5),

- Lake Creek and South Fork Cut Bank Creek (approximately reference post 12.5 to 13), and
- South Fork Milk River, south and middle branches (approximately reference post 19.5 to 22).
- During any given construction year, no work will be conducted for the entire construction season at two of the three locations specified above. At the one location per year where construction is allowed, no work will be conducted from 6:00 PM to 9:00 AM from April 1 to June 30.
- Alternative slopes will be analyzed to reduce impacts of fills at the three locations listed above.
- Construction plans will specify that clearing and grubbing beyond the construction limits (not the right-of-way limits) for the three locations listed above and any temporary clearing necessary for culvert or utility line installation or similar activities outside the construction limits but within the right-of-way would be kept to the smallest area practicable, to be reclaimed following construction.
- As appropriate, construction plans will specify that contractor stockpiles of topsoil must be contained within the construction limits and may not be stored at environmentally sensitive areas. Locations where this measure will be implemented will be specified in the special provisions for this project and will include cultural sites and high quality wetlands.
- The V-shaped ditch will be applied to minimize vegetation disturbance at the three locations listed above.
- Onsite visits would be conducted by MDT and Blackfeet Nation Environmental Office botanists and biologists to develop appropriate post-construction re-vegetation plans that include a woody species component to enhance the vegetative cover at the three locations listed above.

Gray Wolf:

- The proposed crossing structures and vegetation retention guidelines will facilitate wildlife movement through the project corridor. No additional conservation measures are proposed.

Canada Lynx:

- Because lynx habitat is limited to the portion of the corridor near Hudson Bay Divide, construction plans will specify that from approximately reference post 23.5 to 24.5 clearing and grubbing will be limited to the minimum amount necessary beyond the construction limits. In that area, temporary clearing necessary for culvert or utility line installation or other similar activities outside the construction limits but within the right-of-way will be kept to the minimum amount necessary.
- Disturbed areas will be reclaimed as discussed in the vegetation and Wildlife Habitat Section.

Bull Trout:

- Conservation measures are the same as those described in the Fisheries Resources Mitigation Section.

Material Source Sites:

- The contractor will be required to secure Blackfeet Nation Environmental Office clearance for material source sites within the Blackfeet Nation.

Socioeconomics

- Hiring for project construction will be managed in accordance with the current Memorandum of Understanding between the Blackfeet Nation and the State of Montana, Department of Transportation (MOU) or any subsequent update to that agreement. (At this time, the current MOU was signed in October 2006 and will remain in effect for five (5) years unless terminated by either party.)
- To minimize impacts on the café/general store at Kiowa and the Aspenwood Café and campground on US 89, MDT will keep US 89 open to travel during construction and will minimize traffic delays to the extent feasible during the peak tourist season (Fourth of July through Labor Day).
- To minimize impacts on the café at reference post DLR-33.5 and the bed and breakfast establishment at reference post DLR-33, MDT will keep Duck Lake Road open to travel during construction and will minimize traffic delays to the extent feasible.

Displacements and Right-of-Way Acquisition

- MDT will purchase rights-of-way (fee or permanent easement) at fair market value.
- Landowners affected are entitled to receive just compensation for any land or improvements acquired and for any depreciation in value of the remaining land due to the effects of highway construction pursuant to Montana law.
- Acquisition will be accomplished in accordance with applicable laws; specifically, Title 60, Chapter 4 and Title 70, Chapter 30, Montana Code Annotated; and Title 42, USC, Chapter 61, "Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs."

Land Use and Farmlands

- During final design, loss of farmland areas will be minimized to the extent feasible.
- For areas where impacts on prime farmlands are unavoidable, MDT will coordinate with the Natural Resources Conservation Service to complete the required documentation identifying measures taken to avoid impacts on farmlands and calculating total expected impacts.

Transportation

- A detailed traffic control plan will be prepared and implemented in accordance with MDT specifications and plans and the most recent Manual on Uniform Traffic Control Devices.
- A public information plan will warn motorists in advance of construction activity and indicate possible alternate routes.
- In the event that Going-to-the-Sun Road reconstruction occurs while US 89 construction is underway, MDT will coordinate with Glacier National Park to minimize traffic delays to the extent feasible, particularly during peak tourist season (Fourth of July through Labor Day).

Bicycle and Pedestrian Facilities

- Implementation of a traffic control plan and a public information plan will warn bicyclists and pedestrians of construction activity in advance and indicate possible alternative routes.
- MDT will keep US 89 open to travel during construction and will minimize delays to the extent feasible.

Services and Utilities

- Anticipated road closures during construction will be coordinated with the fire departments and police services on the reservation and in surrounding communities to ensure reliable emergency access is maintained and alternative plans or reroutes (where feasible) are developed.
- Precise locations of underground utilities will be identified prior to construction by using methods such as base maps, as-built drawings, and field checks.
- As appropriate, pipe support systems, trench sheeting and shoring, or other precautionary measures will be used to minimize potential for damage to exposed utilities.
- Utility owners, including the city of Browning, Indian Health Service, Glacier Electric Co-op, Blackfeet Utilities Commission, Montana Power, AT&T, and Three Rivers Disposal will be consulted to minimize potential utility service disruptions during construction.
- Utility companies will be required to notify customers of any planned disruptions.
- Utilities that may be affected during construction will be buried, if determined appropriate and feasible in final design.

Hazardous Materials

- Special provisions will be included in the contract documents to address management of contaminated soil and ground water, as needed.
- If hazardous materials are encountered during construction, the contractor will stop work and coordinate with the MDT Project Manager to ensure the material is managed in accordance with applicable laws and regulations.

Historical and Cultural Resources

- If a cultural resource is encountered during construction, the contractor will stop work and coordinate with the MDT Project Manager, who will notify the MDT Cultural Resource Specialist. The MDT Cultural Resource Specialist will coordinate with the Blackfeet Cultural Department and the Blackfeet Tribal Historic Preservation Office, as appropriate.
- If cultural resource sites (including cloth offering sites, tipi rings, and cairns) within the project corridor are impacted, the Blackfeet Tribal Historic Preservation Officer will be contacted for guidance.
- Historic bridges and road segments will be documented in accordance with Historic American Buildings Survey and Historic American Engineering Record standards.
- Any historic bridge intended for removal would first be offered for adoption, if required, in accordance with the requirements of USC Title 23 Section 144(o)(4).
- The contractor will be required to secure Blackfeet Nation clearance for material source sites within the Blackfeet Nation. It is expected that clearance would include a cultural resources review by the Blackfeet Cultural Program and or the Blackfeet Tribal Historic Preservation Officer.

Recreation

- Provide scenic pullouts, sufficient shoulders, and passing opportunities for traffic flow.

- Construction materials and equipment will be stored in designated stockpile and staging areas. Only equipment being used in the area of active construction will be located in the construction area, other equipment will be stored at staging areas.
- Duck Lake Road will remain open to travel during construction, and traffic delays will be minimized to the extent feasible during the peak tourist season.

Visual Quality

- Temporary erosion control structures will be maintained and removed as soon as the area is stabilized.
- Placement of fill that would block unique views will be minimized.
- Adjacent cut-and-fill slopes will be planted with desirable species including grasses and other low-profile plants.

Section 4(f) Resources

Four Historic Road Segments (Sites 24GL846, 24GL208, 24GL209, 24GL210):

- Historic roads and bridges in the project corridor are subject to requirements outlined in the MDT, Montana State Historic Preservation Office, FHWA, and Advisory Council Historic Preservation Programmatic Agreement included in Appendix D of the FEIS) or the most current programmatic agreement. (A copy of the 1989 Programmatic Agreement is included in Appendix D of the FEIS. Subsequent to the signing of the FEIS, in February 2007, a new Programmatic Agreement was signed.)
- Prior to construction, each historic road segment to be affected by the project will be photographed and described in detail in a written summary and historic record of the site. Those records will be provided to the Blackfeet Cultural Department and the Montana State Historic Preservation Office for retention.

South Fork Cut Bank Creek/Kiowa Bridge (Site 24GL212):

- Proposed mitigation involves documenting the bridge.
- Prior to its removal, the bridge will be photographed and described in detail in a written summary and historic record of the site. This record will be provided to the Blackfeet Cultural Department and the Montana State Historic Preservation Office for retention.

South Fork Milk River Bridge (Site 24GL213):

- The South Fork Milk River Bridge will be preserved to the extent practicable.
- Modifications will be the minimum necessary for structural safety.
- If the bridge cannot be brought to current standards it would be removed.
- If preserved, one side of the bridge would retain the original concrete arch. The other side of the bridge would be widened and reconstructed to look like the original concrete arch.
- Prior to modifications, the bridge will be photographed and described in detail in a written summary and historic record of the site. This record will be retained at the Blackfeet Cultural Department and the Montana State Historic Preservation Office.

Glacier National Park:

- Tourists accessing the east entrance of Glacier National Park could travel Duck Lake Road during construction activities on US 89. Because improvements are also planned for Duck Lake Road, construction would not occur during the same period.

- The traveling public would be provided sufficient warning of potential traffic delays and alternate routes.

COMMENTS ON THE FEIS

A Notice of Availability (NOA) of the FEIS was published in the Federal Register on February 9, 2007.

A news release announcing the availability of the FEIS was submitted to several local newspapers: Glacier Reporter in Browning, Pioneer Press in Cut Bank, Great Falls Tribune in Great Falls, Shelby Promoter in Shelby, and Valerian in Valier. The news release was also distributed statewide via newslinks@metnet.mt.gov on February 2, 2007.

Display ads were purchased to announce the FEIS in several local newspapers: Glacier Reporter in Browning, Pioneer Press in Cut Bank, Great Falls Tribune in Great Falls, and Shelby Promoter in Shelby.

A newsletter announcing the availability of the FEIS was mailed to those on the project mailing list. That information was also made available on the project website and the MDT website.

The FEIS was available for a 30-day public review period beginning February 9, 2007, and ending March 12, 2007. The FEIS was distributed for review to the federal, state, local, and tribal agencies listed in Chapter 5 of the FEIS, and to members of the public at their request. The FEIS was made available for the public review period at the viewing location listed in Chapter 5 of the FEIS.

Two comments were received during the public review period. Those comments and associated responses are included in Attachment A.

ATTACHMENT A: FEIS COMMENTS

COMMENT 1:

Juanita Riley, PE

7014 Environmental Services

Rocky Mountain

Dear Mr. Nelson: I would like to receive a copy of the project US 89 Browning. Please include the 25.5 mile segment of US 89 within a conservation property. The Harwood Tract is not Reservation Land. The person owned said the lots I purchased were patented land which he had inherited from his mother.

I assume the road would be along the border of the Harwood Tract. I would like to know where. I do not know where Lake Ford is so will appreciate road diagrams to inform me.

Sincerely,

Juanita Riley

Edna K. Nelson

134 2nd Ave.

Harwood, MT 59501

MASTER FILE
COPY

RESPONSE 1:

The commenter requested information to understand how the project may affect her property, which she referred to as part of the Norman Tract. A copy of the FEIS was sent to her.

The project, as presently planned, would require acquisition of a strip of right-of-way from the south tier of lots in the "Norman Tract", directly adjacent to the existing US 89 highway. At this time, no buildings are located on the portion of the lots that would be affected. Currently we estimate that the width of the additional strip of required right-of-way would be approximately 60 feet. The exact width will be determined during final design of the project.

If the project commences, US 89 is widened, and a strip of right-of-way is ultimately required from the "Norman Tract", the owners will be contacted directly. That direct contact would occur near the completion of the final design phase of the project which is likely at least two years in the future.

Necessary right-of-way acquisitions, including improvements, would be purchased at fair market value in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-636 as amended), 42 United States Code Section 4651 and 4652 et seq., and the Uniform Relocations Act Amendments of 1987 (Public Law 100-17).

COMMENT 2, Page 1:



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8, MONTANA OFFICE
FEDERAL BUILDING, 10 West 16th Street, Suite 3200
HELENA, MONTANA 59626

RECEIVED

MAR 9 - 2007

Ref: BMO

March 8, 2007

ENVIRONMENTAL

MASTER FILE
COPY

Ms. Janice Weingart Brown, Administrator
Montana Division, Federal Highway Administration
5854 Shepard Way
Helena, Montana 59601

Re: CEQ # 20070037; Comments on U.S. Highway 89,
Browning to Hudson Bay Divide, Final
Environmental Impact Statement

Dear Ms. Brown:

The Environmental Protection Agency (EPA) Region VIII Montana Office has reviewed the Final Environmental Impact Statement for highway improvements to U.S. Highway 89 Browning to Hudson Bay Divide, in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act.

We appreciate the receipt in the FEIS (Appendix H) of responses to EPA and other agency and public DEIS comments. The EPA recognizes that the preferred alternative, Alternative C with the Duck Lake Road improvements, has slightly greater environmental impacts than Alternative B with no improvements to Duck Lake Road, however, we also understand that the preferred alternative offers additional safety and transportation benefits. EPA, therefore, does not object to the preferred alternative, although we do have concerns about potential impacts to water quality, aquatic habitat, wetlands, and wildlife, particularly impacts associated with relocation of segments of South Fork Cut Bank Creek, and impacts to the threatened grizzly bear.

We are pleased that efforts will be made to maintain natural stream functions and processes during the relocation of SF Cut Bank Creek, and that bridge lengths would be increased for crossings of SF Cut Bank Creek, Lake Creek, and the Milk River. We are also pleased that a National Pollutant Discharge Elimination System (NPDES) permit and Section 404 Dredge & Fill permit will be obtained, and that a Stormwater Pollution Prevention Plan (SWPPP) and Wetland Mitigation Plan will be prepared prior to construction. We note that NPDES permits apply only to surface water and not to ground water, and that stormwater discharges during road construction will likely be covered under EPA's general permit for storm water discharges for construction. Authorization to discharge under the general permit is issued by EPA Headquarters and can be obtained in a relatively short time. EPA does not have a general permit for dewatering, and an individual NPDES permit must be obtained. Coverage

COMMENT 2, Page 2:

under an individual permit requires that the applicant apply 180 days before they wish to start discharging. For the construction stormwater general permit, an electronic Notice of Intent can be filed at <http://efpub1.epa.gov/index/stormwater/efn01a.cfm>. Mr. Greg Davis in the EPA Denver Regional Office (phone: 303-312-6314) can answer questions about the application process. For the individual NPDES dewatering permit Ms. Rosemary Rowe in the EPA Helena Office should be contacted at 406-457-5020.

We also want to indicate that EPA supports provisions to facilitate wildlife movement across US 89 and the Duck Lake Road, along with continued consultation with the U.S. Fish & Wildlife Service if grizzly bear mortality exceeds one grizzly bear killed by vehicles over a ten year period.

We appreciate the opportunity to participate in the NEPA process for this project. If you have any questions regarding our comments and concerns please contact Mr. Stephen Potts of my staff in Helena at (406) 457-5022 or in Missoula at (406) 329-3313. Thank you for your consideration.

Sincerely,



John F. Wardell
Director
Montana Office

cc Larry Svoboda/Julia Johnson, EPA, NEPA-N, Denver
Jean Riley, MDOT, Helena
Gerald Wagner/Mary Clare Weatherwax, Blackfeet Nation, Browning



Printed on Recycled Paper

RESPONSE 2:

Thank you for your comment.